THE HONOURABLE SRI JUSTICE D. APPA RAO

W.P. NO. 10886 of 2006

Dated: 31.5.2006

Between:-

M/s. Divis Biotech Private Limited, H.No. 7-1-28/1/A/12, Ameerpet, Hyderabad,a represented by its Director, Divi Satchandra Kiran s/o Divi K. Murali, aged about 29 years, R/o Hyderabad.

…Petitioner

And

Government of A.P. represented by its Principal Secretary, Municipal Administration, Secretariat, Hyderabad and 2 others.

…Respondents.

THE HONOURABLE SRI JUSTICE D. APPA RAO

W.P. NO. 10886 of 2006

O R D E R

The petitioner questions the action of the respondents in threatening to demolish the property i.e. compound wall constructed over the land admeasuring Ac.1.38 cents situated in Survey Nos. 237/6A of Madhuravada, Visakhapatnam (Rural) Mandala, Visakhapatnam District without giving notice and without following the procedure prescribed as per law, as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents. With the consent of both the parties, the matter is taken up for final disposal.

It is the case of the petitioner that he is the absolute owner and possessor of the land admeasuring an extent of Ac. 1.38 cents, situated in S.No. 237/6A of Madhurawada, Visakahapatnam (Rural) Mandal, Visakhapatnama District.

The learned counsel for the petitioner submits that the respondents, without issuing any notice and without initiating any proceedings and without paying any compensation, trying to demolish the building of the petitioner for widening of the road. The learned counsel for the petitioner submits that the action of the respondents without following due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894, is in utter violation of the principles of natural justice as well as Sections 146 or 147 of the Act.

Admittedly, this Court in a some-what similar case in W.P. No. 8771 of 2006 by order dated 26.04.2006, directed the Musnicipal Corporation, Kakinada, not to demolish the structures of the building or take away any portion of the property of the petitioner, without following due process of law either under Sections 146 and 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act.

While considering this contention, this Court opined that the road widening is in the public interest. But, while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Undoubtedly, the Municipal Corporation has to issue notice before acquiring the building or property belonging to the petitioner for widening the road. The decision applies on all fours to the case on hand.

Considering the above circumstances, the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the property of the petitioner without following due process of law either under sections 146 or 147 of the Act or private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

D. APPA RAO,J

31.5.2006

vp